

**CITY OF OWOSSO
REGULAR MEETING OF THE CITY COUNCIL
MINUTES OF OCTOBER 5, 2015
7:35 P.M.**

PRESIDING OFFICER: MAYOR BENJAMIN R. FREDERICK

OPENING PRAYER: PASTOR MARLENE WEBSTER
OWOSSO CITY CHURCH

PLEDGE OF ALLEGIANCE: COUNCILPERSON ROBERT J TEICH, JR.

PRESENT: Mayor Benjamin R. Frederick, Mayor Pro-Tem Christopher T. Eveleth, Councilpersons Loreen F. Bailey, Burton D. Fox, Elaine M. Greenway, Michael J. O'Leary, and Robert J. Teich, Jr.

ABSENT: None.

APPROVE AGENDA

Motion by Mayor Pro-Tem Eveleth to approve the agenda as presented.

Motion supported by Councilperson Teich.

Mayor Frederick indicated staff had requested the removal of Item of Business No. 1.

Motion by Mayor Pro-Tem Eveleth to amend the original motion to include the removal of Item of Business 1. Brownfield Redevelopment Plan – District #16, Qdoba Site.

Motion to amend supported by Councilperson Bailey. The original motion and amendment were concurred in by unanimous vote.

APPROVAL OF THE MINUTES OF REGULAR MEETING OF SEPTEMBER 21, 2015

Motion by Councilperson Fox to approve the Minutes of the Regular Meeting of September 21, 2015 as presented.

Motion supported by Councilperson O'Leary and concurred in by unanimous vote.

Mayor Frederick briefly listed the handouts given to Council immediately prior to the start of the meeting.

PROCLAMATIONS / SPECIAL PRESENTATIONS

Swearing In Ceremony- Police Department Employees. Friends and family joined Mayor Frederick and Public Safety Director Lenkart in a ceremony to swear in the City's newest patrol officers: Ryan Jenkins, Branden Stockford and Adam Terry.

PUBLIC HEARINGS

Rezoning Request - 1405 W. North Street

A public hearing was conducted to receive citizen comment regarding the proposed rezoning of the property located at 1405 West North Street from R-1 Single Family Residential to OS-1 Office Service District, contingent upon sale of the property to Covenant Eyes.

The following people commented regarding the proposed amendment:

Brian Atkins, Covenant Eyes representative, commented on the dramatic growth of the company in the 15 years since it was founded. He went on to describe the company's proposed use of the property at 1405 W. North Street, saying they were cognizant of the fact that the property is in a heavily residential area.

Justin Horvath, President/CEO of the SEDP, indicated his support for the rezoning and the overall project saying the company was a great asset to the community.

Whereas, the Council, after due and legal notice, has met and having heard all interested parties, motion by Mayor Pro-Tem Eveleth that the following ordinance be adopted:

ORDINANCE NO. 770

AN ORDINANCE AMENDING CHAPTER 38 ZONING OF THE CODE OF ORDINANCES TO REZONE A PORTION OF THE PARCEL OF REAL PROPERTY LOCATED AT 1405 WEST NORTH STREET AND AMEND THE ZONING MAP

WHEREAS, the city of Owosso received a petition from Covenant Eyes, Inc. on behalf of the owner of real property identified as 1405 West North Street, to rezone the western portion of the parcel from R-1 Single Family Residential District to OS-1 Office Service District; and

WHEREAS, the Planning Commission published and mailed notices for the request, held a public hearing on the request, and deliberated on the request; and

WHEREAS, the Planning Commission finds that the proposed rezoning meets the intent and criteria for a zoning amendment as it relates to the master plan and the zoning ordinance; and

WHEREAS, the City staff and Planning Commission recommend, without reservations or conditions, the rezoning of the following parcel:

Parcel Address	Current Zoning	Amended Zoning
west portion of 1405 West North St, described as follows:	R-1, Single Family	OS-1, Office Service

Part of the Northeast 1/4 of the Northeast 1/4 of Section 14, T7N-R2E, Owosso Township, Shiawassee County, Michigan, described as beginning at a point that is S88°05'30"W on the North line of said Section 14 a distance of 962.03 feet from the Northeast corner of said Section 14; thence S00°13'38"W 31.00 feet; thence S08°42'07"E 33.60 feet; thence S29°37'59"E 33.94 feet; thence S00°13'39"W 260.02 feet; thence N69°01'18"W 402.05 feet to the North and South 1/8 line in the Northeast 1/4 of said Section 14; thence N88°05'30"E 100.00 feet; thence N00°13'39"E parallel with said North and South 1/8 line a distance of 198.00 feet to the North line of said Section 14; thence N88°05'30"E on said North line a distance of 254.10 feet to the point of beginning, containing 1.89 acres, more or less. Including a non-exclusive easement for ingress and egress described as beginning at a point that is S88°05'30"W on the North line of said Section 14 a distance of 913.87 feet from the Northeast corner of said Section 14; thence S00°13'39"W 80.48 feet; thence S60°22'01"W 30.00 feet; thence N29°37'59"W 33.94 feet; thence N08°42'07"W 33.60 feet; thence N00°13'38"E 31.00 feet to the North line of said Section 14; thence N88°05'30"E on said North line a distance of 48.16 feet to the point of beginning. Subject to the use of the Northerly 33.00 feet thereof as North Street. Also subject to all other easements and restrictions of record.

and

WHEREAS, the City Council held a public hearing October 5, 2015 and deliberated on the request; and

WHEREAS, the City Council finds that the zoning petition meets the intent and criteria for a zoning map amendment, specifically as it relates to the requirements of Section 38-555.

NOW THEREFORE BE IT RESOLVED THAT THE CITY OF OWOSSO ORDAINS:

SECTION 1. OFFICIAL ZONING MAP AMENDMENT. That Chapter 38, Zoning, Sec. 38-27, Zoning Districts and Map, reflect the following change, to be noted on the official map and filed with the city clerk

Parcel Address	Current Zoning	Amended Zoning
west portion of 1405 West North St, described as follows:	R-1, Single Family	OS-1, Office Service

Part of the Northeast 1/4 of the Northeast 1/4 of Section 14, T7N-R2E, Owosso Township, Shiawassee County, Michigan, described as beginning at a point that is S88°05'30"W on the North line of said Section 14 a distance of 962.03 feet from the Northeast corner of said Section 14; thence S00°13'38"W 31.00 feet; thence S08°42'07"E 33.60 feet; thence S29°37'59"E 33.94 feet; thence S00°13'39"W 260.02 feet; thence N69°01'18"W 402.05 feet to the North and South 1/8 line in the Northeast 1/4 of said Section 14; thence N88°05'30"E 100.00 feet; thence N00°13'39"E parallel with said North and South 1/8 line a distance of 198.00 feet to the North line of said Section 14; thence N88°05'30"E on said North line a distance of 254.10 feet to the point of beginning, containing 1.89 acres, more or less. Including a non-exclusive easement for ingress and egress described as beginning at a point that is S88°05'30"W on the North line of said Section 14 a distance of 913.87 feet from the Northeast corner of said Section 14; thence S00°13'39"W 80.48 feet; thence S60°22'01"W 30.00 feet; thence N29°37'59"W 33.94 feet; thence N08°42'07"W 33.60

feet; thence N00°13'38"E 31.00 feet to the North line of said Section 14; thence N88°05'30"E on said North line a distance of 48.16 feet to the point of beginning. Subject to the use of the Northerly 33.00 feet thereof as North Street. Also subject to all other easements and restrictions of record.

SECTION 4. AVAILABILITY. This ordinance may be purchased or inspected in the city clerk's office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

SECTION 5. EFFECTIVE DATE. This amendment shall become effective October 26, 2015.

Motion supported by Councilperson Teich.

Roll Call Vote.

AYES: Mayor Pro-Tem Eveleth, Councilpersons O'Leary, Fox, Greenway, Bailey, Teich, and Mayor Frederick.

NAYS: None.

CITIZEN COMMENTS AND QUESTIONS

There were no citizen comments.

Mayor Pro-Tem Eveleth thanked everyone that attended the kick-off event for the first ever Glow Owosso Ice Queen contest over the weekend. He said they had four great candidates raising money for good causes and he hoped the campaign would be a great success. He also noted that there will be a Facebook page set up to advertise events for all the candidates.

Councilperson Fox said numerous people had expressed concern regarding the bus loading area near Emerson School due to the poor condition of the sidewalk. He asked that someone take a look at it.

Councilperson Bailey noted that one year ago she started her work tackling the feral/stray cat problem in the area and her organization has spayed/neutered and placed over 700 cats in that time. She went on to announce a "make it, take it" workshop to build winter cat shelters Sunday, October 18th from 1:30 to 3:30 p.m. in the Council Chambers and encouraged all interested parties to attend.

CITY MANAGER REPORT

City Manager Donald D. Crawford briefly detailed the latest Project Status Report.

Mayor Frederick inquired if it would be possible to use the list of vacant homes to find potential foreclosures that could be picked up by Habitat for Humanity, he noted that the Household Hazardous Waste Collection will take lead-based paint chips, and he inquired whether the City had claw-back provisions when contractors significantly delay City projects saying he wanted there to be a penalty in those instances. City Manager Crawford indicated there are sometimes penalties incorporated into the contract when a contractor fails to meet a deadline. The City could also terminate the contract and sign an agreement with the next lowest bidder. Any difference in price could be recouped from the original contract holder.

CONSENT AGENDA

Motion by Mayor Pro-Tem Eveleth to approve the Consent Agenda as follows:

Change Order No. 1 – Westown Parking Lot Project. Approve Change Order No. 1 to the Westown Parking Lot Construction contract with Sumbera Excavating, Inc. increasing the amount of the contract \$7,180.00 for the construction of a fence along the southern border of the lot as required by the building code as follows:

RESOLUTION NO. 86-2015

AUTHORIZING CHANGE ORDER NO. 1 TO THE CONTRACT WITH SUMBERA EXCAVATING, INC. FOR CONSTRUCTION OF THE WESTOWN PARKING LOT

WHEREAS, the city of Owosso, Shiawassee County, Michigan, approved a contract to Sumbera Excavating, Inc. on August 3, 2015 for the construction of a new parking lot on South Lansing Street in Westown; and

WHEREAS, the City has requested additional work from Sumbera Excavating, Inc. to furnish and install a fence along the southern border of the parking lot, fulfilling requirements of the building code.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Owosso, Shiawassee County, Michigan that:

- FIRST: The City of Owosso has determined that it is advisable, necessary and in the public interest to amend the Westtown Parking Lot Construction contract to add the construction of a fence along its southern border, increasing the contract amount by \$7,180.00.
- SECOND: The accounts payable department is authorized to submit payment to Sumbera Excavating, Inc. for work satisfactorily completed up to the amount of the contract including Change Order No. 1.
- THIRD: The above expenses shall be paid from General Fund Account No. 101-585-974.000 WESTOWNLOT.

Bid Award – Bariatric Cot. Waive bidding irregularities, approve bid award to Kodiak Emergency Vehicles for the purchase of one Stryker 6082 MS-Pro Bariatric Cot for the Fire Department in the amount of \$7,803.00, and authorize payment to the vendor upon satisfactory receipt of the equipment as follows:

RESOLUTION NO. 87-2015

AUTHORIZING THE EXECUTION OF A CONTRACT FOR PURCHASE OF ONE BARIATRIC COT FOR AMBULANCE SERVICE WITH KODIAK EMERGENCY VEHICLES

WHEREAS, the City of Owosso, Shiawassee County, Michigan, has an EMS department requiring the use of cots for its ambulances; and

WHEREAS, equipment for those ambulances needs to be replaced periodically because of wear and tear; and

WHEREAS, the City sought bids for the purchase of one Stryker bariatric cot; and

WHEREAS, Moore Medical submitted the lowest responsive bid but staff was unable to contact the firm to further inquire about the purchase; and

WHEREAS, Kodiak Emergency Vehicles submitted a bid that was within \$55.00 of the Moore Medical bid, and further the company has been responsive to inquiries and has served the City well in the past.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Owosso, Shiawassee County, Michigan that:

- FIRST: The City of Owosso has theretofore determined that it is advisable, necessary and in the public interest to waive bidding irregularities and purchase one (1) Stryker 6082 MX-Pro Bariatric Cot at a price of \$7,803.00 from Kodiak Emergency Vehicles.
- SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached, Equipment Agreement between the City of Owosso, Michigan and Kodiak Emergency Vehicles.
- THIRD: The accounts payable department is authorized to submit payment to Kodiak Emergency Vehicles in the amount of \$7,803.00 upon satisfactory delivery of the equipment.
- FOURTH: The above expenses shall be paid from the Fire Division Equipment fund 101-335-978.000.

Motion supported by Councilperson Bailey.

Roll Call Vote.

AYES: Councilperson Greenway, Mayor Pro-Tem Eveleth, Councilpersons O'Leary, Teich, Fox, Bailey, and Mayor Frederick.

NAYS: None.

ITEMS OF BUSINESS

Brownfield Redevelopment Plan - District #16, Qdoba Site

(This item was removed from the agenda.)

Tree Removal Policy Amendment

City Manager Crawford noted the handout from the City's Arborist listing his concerns with the proposed amendment. He also inquired if the Council really wanted to amend the tree removal policy in light of the fact the policy had been effective since 1973 and the City represents itself as a Tree City.

The Council deliberated on amending the policy to allow the removal of healthy trees that are of a prohibited species. The Council discussed limiting the number of healthy trees removed each year, not making any changes to the policy, incorporating the policy suggestions of the City's Arborist into any amendment, the limiting effect of the cost to remove a tree, and requiring trees removed through this policy be taken down by a professional.

Motion by Councilperson Fox to approve the following resolution to amend the Street Tree Removal Policy:

RESOLUTION NO. 88-2015

**AMENDING
THE CITY OF OWOSSO
STREET TREE REMOVAL POLICY**

WHEREAS, the City of Owosso has a long history of urban forestry, calling for the careful preservation of existing trees and the planting new trees; and

WHEREAS, in 1973 the City Council adopted a policy governing the removal of trees in the City right-of-way to ensure that the City's legacy of tree-lined streets continued into the future; and

WHEREAS, a recent request from a citizen highlighted the fact that the current tree removal policy does not include a provision allowing for the removal of trees of species prohibited by the Code of Ordinances.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Owosso, Shiawassee County, Michigan that:

FIRST: The Street Tree Removal Policy be amended to include a provision allowing the removal of trees of species prohibited by the Code of Ordinances as attached in Exhibit A.

SECOND: The amended Street Tree Removal Policy will become effective immediately.

EXHIBIT A

STREET TREE REMOVAL POLICY

All street tree removals by City forces must be initiated by a valid work order issued by the Department of Public Services. No street trees will be cut without such a work order.

Under a valid work order, the City will remove any diseased, dead or hazardous street tree at no cost to the abutting property owner.

Abutting property owners who request permission to remove a healthy street tree, which is not dead, diseased, nor hazardous, will be granted permission to do so only if the following pre-requisites are fulfilled:

1. An inspection by this Department verifies the fact that the requested removal is a matter of real necessity and no reasonable alternative exists.

or

2. An inspection by this Department verifies the fact that the requested removal is a species of tree prohibited by the Code of Ordinances of the City of Owosso.

and

3. The abutting property owner, at his expense, secures a properly insured and skilled contractor to remove the subject tree and stump and secures written permission from the Department of Public Services for each tree removal.

4. Prior to receiving a permit the contractor secured to remove a healthy street tree must provide this Department with a timeline for completion, including the removal of all brush and wood from the right-of-way and grinding of the remaining stump.
5. Prior to receiving a permit from this Department the contractor must contact MISS DIG and procure a right-of-way permit.
6. Prior to receiving permit to remove a healthy street tree, the abutting property owner must present the Department with satisfactory evidence that suitable arrangements have been made to replace each street tree to be removed with a new tree at or near the same location if physically feasible. Feasibility and final placement of the new tree will be determined by this Department.
7. Upon completion inspection of the site of removal/replacement will be conducted by this Department to ensure compliance.

Motion supported by Councilperson Teich.

Roll Call Vote.

AYES: Councilpersons O'Leary, Greenway, Teich, Mayor Pro-Tem Eveleth, Councilperson Fox, and Mayor Frederick.

NAYS: Councilperson Bailey.

Tree Removal Request – 1111 Harding Avenue

Mayor Frederick announced that this item of business was rendered moot by the policy amendment just approved by Council.

COMMUNICATIONS

Susan K. Montenegro, Assistant City Manager. Trebor Industries update.

Historical Commission. Minutes of August 14, 2015.

Downtown Development Authority/Main Street. Minutes of September 2, 2015.

Downtown Historic District Commission. Minutes of September 16, 2015.

Assistant City Manager Susan K. Montenegro gave an oral update on the Trebor code enforcement issue. Mayor Frederick reminded everyone that the court process was proceeding concurrently alongside the staff efforts to work with the company toward compliance.

There was discussion regarding a requested variance for one of the properties and trucks blocking the street when loading/unloading. Staff noted that work will continue in an effort to resolve the issues.

Councilperson Teich thanked Assistant City Manager Montenegro for a series of memos she wrote on the Trebor issue, the Cline property purchase offer, and progress at the Cargill site saying they were very informative and helpful.

CITIZEN COMMENTS AND QUESTIONS

Tom Manke, Owosso Township resident, commented about the availability of documents distributed to Council members immediately prior to the meeting, inquired about where Trebor was painting its racks, and whether it was legal for the City to charge citizens for FOIA requests.

Alberta Phillips, 401 Corunna Avenue, commented on semis blocking her street saying it was a dead end street and there was no alternate way to access her property. She also commented on the loading dock on Division Street and the fact that she and her neighbors have tried to work with Trebor all the while the company has thumbed its nose at City regulations.

Eddie Urban, 601 Glenwood Avenue, also commented on the cost for FOIA requests asking if there was any way for him to get a discount or to access the information on line.

City Clerk Amy K. Kirkland indicated that City police reports are not available on the internet, the fees for FOIA requests are determined by State law, and all information that is distributed to Council prior to a meeting (including the night of) is available for public inspection at the staff table.

Councilperson Fox asked that the City Manager contact Mrs. Olney regarding her request to remove the City trees in her front yard.

Mayor Frederick invited everyone to Oktoberfest saying it was another extraordinary event to be experienced here in town.

NEXT MEETING

Monday, October 19, 2015

BOARDS AND COMMISSIONS OPENINGS

Building Board of Appeals – Alternate (2), both terms expire June 30, 2018
Historical Commission, term expires December 31, 2017
Planning Commission, term expires June 30, 2016

ADJOURNMENT

Motion by Mayor Pro-Tem Eveleth for adjournment at 8:44 p.m.

Motion supported by Councilperson Bailey and concurred in by unanimous vote.

Benjamin R. Frederick, Mayor

Amy K. Kirkland, City Clerk